UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,755	05/08/2006	Fabrice Clerc	5284-69PUS	1496

7590   03/18/2009

Thomas Langer
Cohen Pontani Lieberman & Pavane
551 Fifth Avenue
Suite 1210
New York, NY 10176

EXAMINER
ZIA, SYED

ART UNIT	PAPER NUMBER
2431	

MAIL DATE	DELIVERY MODE
03/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/578,755	CLERC, FABRICE
	Examiner	Art Unit	
	SYED ZIA	2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>08 May 2006</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-10</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-10</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☒ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to application filed May 8, 2006. Claims 1-10 are

pending.

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2.   Claims 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to

non-statutory subject matter.

3.   Claims 10 recite a computer program, which is interpreted as software per se, however,

the claims fail to assert the program recorded on an appropriate computer-readable medium so as

to be structurally and functionally interrelated to the medium and permit the function of the

descriptive material to be realized. Since a computer program is merely a set of instructions

capable of being executed by a computer without a computer-readable medium needed to realize

the computer program's functionality, it is regarded as nonstatutory functional descriptive

material. See MPEP 2106.01 for details.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Mirabella. (U. S.

Publication No.: 2004/0167859).

1.   Regarding Claim 1, Mirabella teach and describe a method of automatically controlling

fraud in an electronic transaction system, comprising the steps of: when a user initiates a session

in the electronic transaction system, generating an element and storing the element in a database

in association with information identifying the user; each time during the session the user

commands the execution of an operation, determining an equation that is satisfied by the element

stored in the database; when a sufficient given number of operations has been effected, solving

the system of equations consisting of the equations determined as above to deduce the element

therefrom; and by consulting the database, deducing from the element obtained in this way the

corresponding information identifying the user (Fig.1-10, [0093-0102]).

2.   Regarding Claim 2, Mirabella teach and describe a system for automatically controlling

fraud in an electronic transaction system, comprising: first calculation means for generating an

element when a user initiates a session in the electronic transaction system; a database in which

the element is stored in association with information identifying the user, the first calculation

means being adapted to determine an equation that the element stored in the database satisfies

each time the user commands the execution of an operation in the session; and second

calculation means adapted to solve the system of equations consisting of the equations

determined as above to deduce the element therefrom when a sufficient given number (n) of

operations has been effected, so that, by consulting the database, it is possible to deduce from the

element obtained in this way the corresponding information identifying the user (Fig.1-10,

[0093-0102]).

3.   Claims 2-8 and 10 are rejected applied as above rejecting Claims 1, and 9. Furthermore,

Mirabella teach and describe a method of automatically controlling fraud, wherein,

As per Claim 2, the equations of the system of equations are independent (Fig.8-9, [0100-

0101]).

As per Claim 3, the equations are linear equations (Fig.8-9, [0100-0101]).

As per Claim 4, the element is comprised of a series of numerical coefficients (Fig.8-9,

[0100-0101]).

As per Claim 5, the series of coefficients defines an equation of a hyperplane having (n-

1) dimensions in a space having n dimensions and, each time the user commands the execution

of an operation, the step of determining an equation consists in determining the coordinates

$(X.sub.i.sup.1, X.sub.i.sup.2, \ldots X.sub.i.sup.n)$ of a point in the hyperplane ([0100-0101]).

As per Claim 6, the series of coefficients defines an equation of a line in a space having two dimensions and, each time the user commands the execution of an operation, the step of determining an equation consists in determining the coordinates (X.sub.i, Y.sub.i) belonging to that line ([0100-0101]).

As per Claim 7, the series of coefficients defines the coordinates (X.sub.1, X.sub.2, . . . X.sub.n) of a point in a space having n dimensions and, each time the user commands the execution of an operation, the step of determining an equation consists in determining the equation of a hyperplane containing the point ([0100-0102]).

As per Claim 8, the series of coefficients defines the coordinates (X.sub.1, X.sub.2) of a point in a space having two dimensions and, each time the user commands the execution of an operation, the step of determining an equation consists in determining the equation of line (D.sub.i) passing through the point ([0100-0102]).

As per Claim 10, a computer program comprising program-code instructions for executing steps of the method according to claim 1 when said program is executed on a computer (Fig.1-6, [0041-0046]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SYED ZIA whose telephone number is (571)272-3798. The examiner can normally be reached on 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sz
March 12, 2009
/Syed   Zia/
Primary Examiner, Art Unit 2431